



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,806	06/13/2005	Roger McMorro	3998264-151581	9879

7590 06/21/2006

Porter Wright Morris & Arthur
Intellectual Property Department
41 South High Street
28th Floor
Columbus, OH 43215-6194

EXAMINER

KASZTEJNA, MATTHEW JOHN

ART UNIT	PAPER NUMBER
----------	--------------

3739

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

JP

Office Action Summary	Application No. 10/516,806	Applicant(s) MCMORROW, ROGER	
	Examiner Matthew J. Kasztejna	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-3, 7, 8 and 10-22 is/are rejected.
 7) ☒ Claim(s) 4-6, 9 and 23 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 13 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice of Amendment

In response to the amendment filed on April 10, 2006, amended claims 1, 8, and 22 and new claim 23 are acknowledged. The rejection of claim 8 under 35 USC 112, second paragraph, is *withdrawn*. The current rejections of the claims 35 U.S.C 103(a) *stand*. The following reiterated grounds of rejection are set forth:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 7, 8, 10-16, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (U.S. Patent No. 6,135,948).

In regard to claims 1-3, 7, 8, 13-15 and 22, Lee teaches a laryngoscope 24 having a blade 28 and a deployable mirror 20 where the mirror 20 is pivotable with respect to the blade 28 (see Figures 3, 4, 7 and 8). A pivoting handle 32 having an upper section 36 and a lower section 38 attached at a central pivot 40 has a bottom 42 from which a control cable 44 extends through the blade 28 in a bore 46 (see Figure 5 and col. 4, lines 27-45). Figure 5 shows the rest state of handle 32 and Figure 7 shows operation of the handle 32 towards handle 30 against a bias to cause the mirror 20 to be deployed. A first pivot arm 48 swings out hinging off first pivot point 49 and a second pivot arm 52 carrying deployable mirror 20 swings out to actuate the mirror 20 into

Art Unit: 3739

operable position (see Figures 6-8 and col. 4, lines 48-62). A sliding member 54 that rides within a sliding slot 56 allow for the fine adjustment or pivoting of the mirror 20 to whatever angle is needed by moving the mirror angle adjustment knob 58 (see Figures 9 and 10). Although Lee does not specifically disclose a spring, as broadly as claimed, handle 32 is in a rest position (Figure 5) via a spring bias by virtue of its central pivot 40. Figure 7 shows that first pivot arm 48 and second pivot arm 52 are coupled via pivot point 51. **In regard to claims 10-12**, Figure 5 shows that the blade 28 is detachable, is curved and extends, during use, substantially perpendicularly from the handle 30 (see also col. 4, lines 27-35). **In regard to claim 16**, Figure 6 shows that blade 28 contains a recess for receiving the mirror 20 in the non-deployed state. **In regard to claim 21**, Figure 5 shows a light source on the blade 28.

Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (U.S. Patent No. 6,135,948) in view of Corazzelli, Jr. (U.S. Patent No. 4,360,008).

In regard to claims 17-20, Lee is silent as to a pivotable tip on blade 28. However, Corrazelli, Jr. discloses a similar laryngoscope comprised of a blade body 30 having a tip 60 that is pivotally secured to the blade 30 by a hinge pin 62, where the tip 60 functions as a tissue depressor or displacer (see Figure 1 and col. 4, lines 62-66). Handle actuating lever 98 causes tip 60 to pivot (see col. 6, lines 31-51). Corrazelli, Jr. thus demonstrates that laryngoscopes with blades having pivotable tips are well known in the art, where the pivotable tip is desirable for moving tissues out of the field of view. Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the laryngoscope of Lee with the pivotable tip disclosed

by Corrazelli, Jr., in the interest of equipping the blade with a tissue displacing or moving mechanism at the tip.

Allowable Subject Matter

Claims 4-6, 9 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed April 10, 2006 have been fully considered but they are not persuasive.

Applicant states that Lee fails to disclose an operating mechanism which is spring biased to adopt a rest state in which the mirror adopts a non-deployed state. However, central pivot 40 creates a spring bias wherein the mirror adopts a non-deployed state (see Fig. 5) when the operating mechanism 32 is not being activated. As the operating mechanism is activated against the spring bias (i.e. when the handle or grip 32 is moved in the direction of the directional arrow A1), it causes the mirror to be deployed. As the operating mechanism is further activated against the spring bias the mirror is pivoted with respect to the blade into a desired position in the patient's throat (see Col. 4, Lines 48-62). In other words, with respect to claims 1 and 23, it is the examiner's position that the initial actuation of the operating mechanism causes deployment of the mirror while further actuation of the mechanism against the spring bias causes the mirror to pivot with respect to the blade via first pivot arm 48 and first pivot point 49. Thus, as broadly as claimed, there is no need for the second operating

mechanism of Lee to cover the limitations of claims 1 and 23. Further evidence of the spring bias created by pivot 40 is provided by the fact that a locking mechanism can be used at central pivot 40 to allow for incremental deployment of the mirror (see Col. 5, Lines 45-49).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

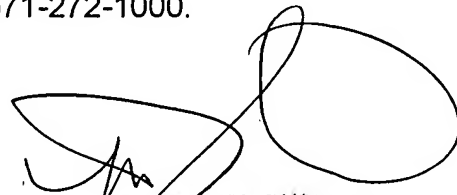
Art Unit: 3739

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJK



6/14/6



LINDA C. M. DVORAK
SUPERVISORY PATENT EXAMINER
GROUP 3700